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VIA ECFS

December 21, 2011

Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-A325
445 12th Street, SW
Washington, DC 20554

Re: Notice of Oral Ex Parte Presentation – *Lifeline and Link Up Reform and Modernization*,
WC Docket No. 11-42; *Federal-State Joint Board on Universal Service*,
CC Docket No. 96-45; *Lifeline and Link Up*, WC Docket No. 03-109

Dear Ms. Dortch:

On December 20, 2011, Eric Einhorn and Jennie Chandra, both of Windstream Communications, met with Garnet Hanly, Rebecca Hirselj, Kim Scardino, and Jamie Susskind of the Commission's Wireline Competition Bureau. Tim Loken, also from Windstream, participated via telephone. Windstream explained its significant interest in proposals that would comprehensively reform the Lifeline and Link Up programs and discussed specific recommendations for reform, addressed in detail below.

I. Windstream Is Committed to Enabling and Advancing Low-Income Consumers' Access to Communications Services

Windstream welcomes this opportunity to provide input on challenges associated with reforming and modernizing the Lifeline and Link Up programs. Windstream is an Eligible Telecommunications Carrier (ETC) providing Lifeline and Link Up services to more than 106,000 low-income customers in 19 states, as of November 2011.¹ As one of the largest telecommunications providers focused on serving primarily rural areas – which are disproportionately low-income – Windstream is well situated to address critical issues regarding the federal low-income programs.

¹ This total does not include low-income customers served by PAETEC, which Windstream acquired on December 1, 2011.

In addition, Windstream has long been a thought leader on issues surrounding broadband adoption, especially improving adoption rates for low-income households. Indeed, the company first asked the Commission to consider subsidizing broadband adoption more than four years ago. In August 2007, testifying at a Senate Committee on Commerce, Science, and Transportation Field Hearing, Windstream President and Chief Executive Officer Jeff Gardner stated that “[t]he gap between those consumers who are online and offline more and more is defined by their economic, rather than geographic, conditions” and that, consequently, “in addition to dedicating funds to aid deployment in unserved areas, policymakers should (a) devote funding to provide support for low-income consumers’ broadband access and (b) allocate funds to increase computer ownership.”² Windstream has repeatedly recommended that the Commission institute a low-income broadband subsidy.³

Windstream’s focus has been informed by its significant experience in working to increase broadband adoption rates among particularly vulnerable populations. First, Windstream’s customers’ incomes are generally lower than those of other Americans: Households in Windstream’s service footprint are approximately 20 percent more likely than the average American household to have a total annual household income (“HHI”) below \$25,000. They are likewise 36 percent *less* likely than the average American household to have a total annual HHI of \$100,000 or greater. Second, Windstream’s customers are generally less well-educated than the average American: Adults in Windstream’s service footprint are about 19 percent more likely than the average American to lack any post-high-school education, and are about 28 percent more likely than the average American not to have graduated from college. Both alone and in combination with significant geographic challenges – Windstream operates in areas where deployment and operating costs are high and subscriber density is low – these demographic issues present particular impediments to broadband adoption.

Nevertheless, despite socioeconomic challenges, Windstream’s broadband penetration leads that of its mid-sized incumbent local exchange carrier peers and the Regional Bell

² See Written Testimony of Windstream President and CEO Jeff Gardner U.S. Senate Committee on Commerce, Science, and Transportation Field Hearing: The State of Broadband in Arkansas at 5 (August 28, 2007).

³ See, e.g., Comments of Windstream Communications, Inc., A National Broadband Plan For Our Future, GN Docket No. 09-51 at 4 (filed June 8, 2009) (“To boost adoption rates in areas where broadband already is available, the National Broadband Plan should call for Recovery Act funds to be dedicated to a pilot program that provides federal discounts for broadband service to low-income consumers. Any meaningful National Broadband Plan must address the economic gap separating those consumers who are online from those who are not.”); Comments of Windstream Communications, Inc., *High-Cost Universal Service Support et al.*, WC Docket No. 05-337 et al. at 54 (filed November 26, 2008) (“*Windstream 2008 Comments*”) (“Windstream has consistently and repeatedly urged federal policymakers to give serious consideration to using Lifeline and Link Up dollars to increase broadband adoption. Any meaningful USF support for broadband must address the needs of low-income consumers who cannot afford to purchase broadband service.”).

Operating Companies.⁴ With respect to consumer lines in particular, Windstream had, by September 30, 2011, attained a broadband adoption rate of more than half of all consumer voice lines in service.⁵ In particular, Windstream’s customer base includes a disproportionately large share of the low-tech, rural, and older populations in its service territory – users who benefit from the Lifeline and Link Up programs and stand to benefit a great deal from all that broadband has to offer. In short, Windstream has faced vexing challenges to deployment and adoption, and has driven subscription to broadband service notwithstanding those challenges.

II. “Non-Usage” Rules Should Be Tailored to Address Current Abuse of the Lifeline Program

To ensure that Lifeline support is used for the benefit of low-income subscribers who are actually using the Lifeline service, Windstream agrees that the Commission should carefully craft “non-usage” rules that minimize reimbursement for customers who have abandoned their service. As recognized in the Notice of Proposed Rulemaking in this proceeding, the existing rules permit pre-paid wireless ETCs potentially to continue to receive Lifeline support for customers who abandoned the service months before.⁶ Because pre-paid wireless ETCs do not receive monthly payment from the subscriber, they may not even be aware when a subscriber has discontinued service.⁷ To minimize abuse and improve the efficiency of the Lifeline program,

⁴ The largest incumbent local exchange carriers’ SEC Form 10-Q reporting reveal the following wireline penetration rates for Third Quarter 2011:

Company	Access Lines	Broadband Lines	Broadband Penetration
AT&T	40,098,000	16,476,000	41.1%
Verizon	24,519,000	8,572,000	35.0%
CenturyLink	14,803,000	5,484,000	37.0%
Frontier	6,310,649	1,754,842	27.8%
Windstream	3,224,000	1,345,800	41.7%
Fairpoint	1,056,877	312,475	29.6%

Broadband penetration is the quotient of broadband lines divided by total access lines.

⁵ As of September 30, 2011, Windstream’s consumer broadband penetration was approximately 61 percent of consumer voice lines.

⁶ *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Linkup*, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, Notice of Proposed Rulemaking, at ¶ 80 (Rel. March 4, 2011) (NPRM).

⁷ *Id.*

the Commission should impose “non-usage” procedures on pre-paid wireless ETCs, as some states have done, and other carriers who do not assess customers a monthly fee for service.⁸

However, as many commenters have noted, “non-usage” requirements should not be applied to ordinary wireline local exchange service or other services that assess a monthly fee.⁹ These carriers may have no ability to monitor usage, and the fact that customers are paying a monthly fee for their service demonstrates that the service continues to have value to them. Such customers have a right to use service every day in a billing cycle. A paying customer who, for example, is away on extended travel or in the hospital has every right to expect that the service benefits that have been paid for will remain intact during those periods of non-use.

III. Lifeline Discounts Should Apply Only When a Subscriber Is Paying a Minimum Charge for the Supported Service

Along the same lines, to maximize the public benefit of universal service funds, Windstream supports the adoption of a rule requiring all ETCs to periodically collect a minimum charge from all participating households, e.g., an amount equal to the government discount. A minimum consumer charge, which has been employed by the Commission in the context of the Lifeline subsidy for tribal areas and also has been used by state commissions,¹⁰ would help ensure that Lifeline-supported services are producing sufficiently valuable public benefits. By paying for service at least in part, Lifeline customers will demonstrate that they find meaningful value in the service, sufficient to warrant supplemental expenditure of federal support.¹¹

As the Commission has noted, the Joint Board has expressed concern about consumers receiving Lifeline service offerings at no cost to the subscriber, and in particular “the

⁸ *Id.* at ¶ 90.

⁹ *See, e.g.*, Comments of CenturyLink, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 9 (April 21, 2011); Comments of Verizon and Verizon Wireless, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 12 (April 21, 2011); Reply Comments of Verizon and Verizon Wireless, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 8 (May 10, 2011); Comments of United States Telecom Association, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 18 (April 21, 2011); Comments of General Communications, Inc., WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 30-32 (April 21, 2011).

¹⁰ *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, CC Docket No. 96-45, Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking, 15 FCC Rcd 12208, 12231-32, ¶ 42 (2000) (following the example of other states such as New York that have established Lifeline rates of \$1 per month plus reduced user charges and requiring a recipient of the tribal subsidy to pay \$1).

¹¹ *See* Comments of CenturyLink at 9.

implications of demand for a service or product that is essentially free.”¹² The validity of this concern, ironically, is underscored by recent survey results submitted by TracFone Wireless, a provider of “free” pre-paid wireless services.¹³ The TracFone Wireless survey results show that almost 65 percent of its responding customers said they would de-enroll from the Lifeline program instead of paying any mandatory charge.¹⁴ TracFone Wireless argues that the Commission should construe these results as evidence that these customers are unable to pay even a minimum charge for Lifeline service.¹⁵ But given that 64.8 percent of households nationwide with a total annual household income below \$20,000 purchase cable and/or satellite television service¹⁶ (and such services typically cost consumers approximately \$50 per month¹⁷), a superior interpretation of these survey result is that many pre-paid wireless Lifeline customers do not sufficiently value their pre-paid wireless voice services.

IV. The Link Up Program Should Continue for ETCs that Receive High-Cost Support and Customarily Charge for Activation

Windstream shares the Commission’s concern about eliminating waste, fraud, and abuse in the Link Up program, and agrees that it is appropriate to eliminate Link Up support for unjustified service activation fees that have been created simply to take advantage of the program.¹⁸ However, the Commission should continue the Link Up Program for “full” ETCs –

¹² *Federal-State Joint Board on Universal Service, Lifeline and Link Up*, CC Docket No. 96-45, WC Docket No. 03-109, Recommended Decision, 25 FCC Rcd 15598, 15626-27, ¶ 79 (Jt. Bd. 2010).

¹³ Comments of TracFone Wireless, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 21 (April 21, 2011).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See 2005 Residential Energy Consumption Survey, U.S Department of Energy, *available at* http://www.eia.gov/emeu/recs/recs2005/hc2005_tables/hc11homeelectronics/pdf/tablehc7.11.pdf.

¹⁷ *Implementation of Section 3 of the Cable Television Consumer Protection and Competition Act of 1992; Statistical Report on Average Rates for Basic Service, Cable Programming Service, and Equipment*, 24 FCC Rcd 259 at ¶ 6 (MB 2009) (“As of January 1, 2006; January 1, 2007; and January 1, 2008, cable operators on average charged \$45.26, \$47.27, and \$49.65, respectively, per month for expanded basic programming service.”).

¹⁸ See Additional Comments of TracFone Wireless on Specific Issues, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 21 (August 26, 2011) (supporting elimination of Link Up support for wireless ETCs that covers “bogus ‘activation fees,’ ‘service commencement charges,’ or other fees which i) many customers do not actually pay and ii) have nothing to do with covering the costs actually incurred by those ETCs of connecting customers to networks”).

i.e., not Lifeline-only ETCs¹⁹ – that customarily charge activation fees. Preserving the Link Up program only for full ETCs that customarily charge activation fees would significantly reduce waste, fraud and abuse of the program while recognizing that full ETCs have been obligated to offer voice service throughout their designated service areas and therefore require support to provide services that are affordable to low-income consumers.

The Commission recently reaffirmed the special role of carriers serving as full ETCs when it decided to continue requiring these carriers to offer voice service throughout their designated service areas.²⁰ It also refused to preempt state carrier-of-last-resort requirements that apply to full ETCs.²¹ In reaching these conclusions, the Commission cited the section 254(b) guiding principles for the preservation and advancement of universal service.²²

To the extent that the Commission believes that it is necessary to require full ETCs to offer supported services throughout their designated service areas, the Commission, to be consistent, also should adopt measures to ensure that these services are “affordable,” pursuant to section 254(b), for low-income consumers – and, in particular, should maintain Link Up for customary service initiation charges imposed by full ETCs. Full ETCs incur real costs in commencing telephone service even where service initiation does not require new installation at the customer premises. These include costs associated with making the access line available to the customer, provisioning services, processing orders, verifying credit, setting up the account, activating billing and activating the line at the wire center.²³ A 2007 study of Windstream’s Ohio operations showed that various departments within the company spend almost 30 minutes setting up service for the average customer that does not require a premise visit, and significantly more time is required when a premise visit is required. Moreover, service initiation for the average Lifeline customer takes even more time than that required of the average non-Lifeline customer, because the company has to process, validate, and store Lifeline-specific forms. For wireline full ETCs, such as Windstream, service activation fees to cover these costs apply to all customers, including Lifeline customers. If this Link Up support were eliminated for full ETCs,

¹⁹ See *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, WC Docket Nos. 10-90, 07-135, 05-337, 03-109, GN Docket No. 09-51, CC Docket Nos. 01-92, 96-45, WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, at ¶ 74, n.105 (USF/ICC Order) (noting distinction between ETCs and those ETCs that are designated only for the purposes of the low-income program).

²⁰ See *id.* at ¶¶ 19, 79-81.

²¹ See *id.* at ¶¶ 19, 82.

²² See, e.g., *id.* at ¶ 81 (citing 47 U.S.C. § 254(b)).

²³ See Reply Comments of CenturyLink, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 5 (September 2, 2011).

Lifeline customers necessarily would incur sharply higher costs to initiate service, and may be discouraged from initiating any service, which would undermine the purposes of the low-income program and the Universal Service Fund generally.²⁴

V. The Commission Should Create a Broadband Adoption Pilot Program that Will Deliver Significant Public Returns on Support

Windstream supports the Commission's proposal to develop a pilot program to evaluate whether and how Lifeline and Link Up can effectively increase broadband adoption by low-income households,²⁵ and it urges the Commission to craft this pilot program carefully to ensure that it delivers the best "bang for the buck" in terms of public benefit.

To that end, the Commission should focus on the functionality offered by broadband services and ensure that pilot program funding only supports the delivery of broadband service that is sufficiently robust to deliver meaningfully on the public benefits extolled by the Commission.²⁶ In particular, the Commission should specify a minimum downstream speed for supported services of at least 3 Megabits per second (Mbps) and a minimum usage allowance of at least 10 Gigabits (GB) to ensure that consumers are able to use critical online offerings like remote conferencing and online education (including digital literacy training).²⁷

²⁴ See Comments of CenturyLink, WC Docket No. 11-42, CC Docket No. 96-45, WC Docket No. 03-109, at 4 (August 26, 2011).

²⁵ See NPRM at ¶ 279.

²⁶ Government officials have recognized that it makes good policy sense to focus on how broadband services are used. The importance of focusing on functionality was recognized by Congress when it provided direction for how broadband stimulus funding should be spent: The Recovery Act instructs NTIA, to the extent practical, to "consider whether an application . . . will, if approved, . . . enhance service for health care delivery, education, or children to the greatest population of users in the area . . ." Likewise, when considering appropriate broadband performance requirements, the FCC's recent Order reforming the high-cost universal service and intercarrier compensation systems noted that "[v]oice, data, graphics, and video telecommunications are the fundamental building blocks for the key education, health care, and person-to-person communication applications." USF/ICC Order at ¶ 93, n. 138. See also *id.* at ¶ 267 (noting that "research suggests that increasing broadband adoption could significantly increase national productivity and growth").

²⁷ See Comments of United States Telecom Association at 23-24 (urging minimum downstream speed of 3 Mbps for broadband services in this context). As Windstream has discussed previously, an additional 1 Mbps upload speed requirement would be inadvisable. If any upload speed requirement is required, the Commission, instead, should use a 768 Kbps target. This upstream speed level would be responsive to consumer demand. The Commission's March 2011 Internet Access Services Report notes that 63 percent of reported connections have upload speeds of less than 768 Kbps, although upload speeds of 1.5 Mbps are available to 85 percent of customers. See March 2011 Internet Access Services Report at 3, 7. In addition, many broadband providers do not provide 1Mbps upload speeds as a standard offering, because current

As the Commission noted in its recent Order reforming the high-cost universal service and intercarrier compensation systems, the Commission's examination of overall traffic patterns shows that consumers are increasingly using their broadband connections to view high-quality video, and want to be able to do so while still using basic functions such as email and web browsing.²⁸ The Commission further has found that streaming standard-definition video in near real-time consumes anywhere from 1 Mbps to 5 Mbps, depending on a variety of factors,²⁹ and the Commission's "Broadband Speed Guide" concludes that the minimum download speed needed for adequate performance of streaming feature movies is 1.5 Mbps, and the minimum download speed needed for adequate performance of HD-quality streaming movie or university lecture is 4 Mbps.³⁰ Thus, a required downstream speed of *at least* 3 Mbps is needed to ensure customers can use Lifeline-supported broadband offerings to access standard-definition video and use typical online education offerings with somewhat reasonable reliability.³¹

Likewise, a significant monthly usage allowance is required to ensure that consumers have meaningful access to broadband over the course of a month. The FCC recently concluded that broadband services "with a usage limit significantly below [fixed] current offerings (e.g., a 10 GB monthly data limit)" would not qualify for Connect America Fund broadband support,

technologies can deliver 768 Kbps upload speed with significantly lower deployment costs than 1 Mbps would require. Windstream previously has explained that 1 Mbps upload speeds would not be available to all customers served by standard ADSL 2+ architecture over a 24 AWG copper pair of 12,000 feet, but in fact would require a special investment in solutions, such as two-pair bonded ADSL 2+, that would create incremental costs. Two-pair bonded ADSL2+ essentially doubles last mile deployment cost since the end user modem is two to three times the cost of a normal single pair modem, two cable pairs are used instead of one, and two ADSL2+ ports are required at the DSLAM. Because the Commission's broadband performance testing initiatives are focused on measuring end user payload, to achieve 1 Mbps of payload throughput would require an upload connection speed of more than 1.2 Mbps, while an upload connection speed of 1 Mbps would produce an actual throughput of about 820 Kbps. *See* Comments of Windstream Communications, Inc., WC Docket Nos. 10-90, 05-337, GN Docket No. 09-51, Appendix at 6 (July 12, 2010).

²⁸ USF/ICC Order at ¶ 93 (citing 2010 Sixth Broadband Progress Report, 25 FCC Rcd at 9563-64, ¶ 11). The FCC added that it "continue[s] to expect that it is not uncommon for more than one person to make use of a single Internet connection simultaneously, particularly in multi-member households that subscribe to a single Internet access service." *Id.* at n.139.

²⁹ *Id.* at ¶ 93.

³⁰ *See* Broadband Speed Guide, Federal Communications Commission, *available at* <http://www.fcc.gov/guides/broadband-speed-guide>. These findings were based upon running one activity at a time.

³¹ Windstream potentially would support a higher minimum speed, if there is an allowance made for cases where the specified speed is not offered by any provider in a given area.

while a “250 GB monthly data limit for CAF-funded fixed broadband offerings would likely be adequate at this time because 250 GB appears to be reasonably comparable to major current urban broadband offerings.”³² As support for these findings, the Commission stated that it had observed in 2009 that residential broadband users who subscribed to fixed broadband service with speeds between 3 and 5 Mbps used, on average, 10 GB per month, and that annual per-user growth in data use is between 30 and 35 percent.³³ Other, more recent assessments of data needed to support today’s standard broadband offerings suggest that it would be appropriate to require a minimum monthly usage allowance that is two or three times greater than 10 GB.³⁴ Thus, 10 GB should be the absolute minimum usage allowance considered.

Such performance requirements are entirely technology-neutral – consistent with the Commission’s goal of technological neutrality³⁵ – in that they focus on the provision of a level of service to individual households that will support a set of necessary applications, without regard to the technology used to provide that service. The speed and capacity requirements largely serve as a proxy for the capabilities that consumers should be able to access with broadband, and thus, supported providers should be required to offer services that meet these requirements. Any provider – fixed or mobile, wired or wireless – offering service that meets these requirements should be free to participate in the pilot program.

Finally, when crafting a pilot program to advance broadband adoption by low-income consumers, Windstream urges the Commission to take into account the particular challenges presented by very rural areas and ensure that components can be implemented both in high-density and low-density areas. In particular, the Commission should not require that providers

³² USF/ICC Order at ¶ 99.

³³ *Id.*

³⁴ Based upon the following Verizon Wireless projections for data required to perform online activities, a consumer easily could require 20 GB of data during a typical month:

25 text only emails per day	7.32 Mb
25 websites per day	750 MB
1 hour of standard def video per day	19.04 GB
No streaming music, VoIP, photos, games	0
Total usage	19.78 GB

See Data Usage Calculator, Verizon Wireless, available at http://www.verizonwireless.com/splash_includes/datacalculator.html.

³⁵ See, e.g., *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, WC Docket Nos. 10-90, 07-135, and 05-337 and GN Docket No. 09-51, Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking, at ¶ 93 (rel. Feb. 9, 2011) (stating that public interest obligations for the provision of voice and broadband service should be technology-neutral).

offer in-person digital literacy training (or give providers able to offer such training an advantage in seeking new broadband adoption support), because such programs are not feasible in rural areas, where many consumers do not have access to a community center or library near their homes.³⁶

* * *

Windstream strongly supports the Commission's efforts to modernize and improve the Lifeline and Link Up programs, and looks forward to working further with the Commission on these efforts. Please feel free to contact me if you need any more information.

Sincerely,

/s/

Jennie B. Chandra

cc: Garnet Hanly
Rebecca Hirselj
Kim Scardino
Jamie Susskind

³⁶ See Comments of United States Telecom Association at 25.